

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Procedures Relating To Areas Eligible For)	DA 12-2075
Funding And Election To Make A Statewide)	
Commitment In Phase II Of the Connect)	DA 13-80
America Fund)	

REPLY COMMENTS OF ALASKA COMMUNICATIONS SYSTEMS

Alaska Communications Systems (“ACS”)¹ hereby submits this reply to comments submitted in response to the Public Notice issued by the Wireline Competition Bureau (the “Bureau”) in the above-captioned proceeding, relating to the election of Connect America Fund (“CAF”) Phase II support by price cap carriers and the challenge process for census blocks identified as eligible for Phase II support.²

I. DETERMINING ELIGIBILITY AT 3 MBPS DOWNSTREAM/768 KBPS UPSTREAM FAILS TO MOVE BROADBAND DEPLOYMENT TOWARD COMMISSION GOALS

Today’s universal service challenge is to ensure that all Americans have access to high-speed Internet access in addition to basic voice service, with most locations served by price cap carriers ultimately able to receive 6 Mbps downstream and 1.5 Mbps upstream (“6/1.5”) speeds

¹ In these comments, ACS signifies the four incumbent local exchange carrier (“ILEC”) subsidiaries of Alaska Communications Systems Group, Inc.: ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC.

² Public Notice, WC Docket No. 10-90, *Procedures Relating To Areas Eligible For Funding And Election To Make A Statewide Commitment In Phase II Of the Connect America Fund*, DA 12-2075 (Wireline Comp. Bur., rel. Dec. 27, 2012) at para. 3 (“CAF II Public Notice”); *see also* Public Notice, WC Docket No. 10-90, *Comment Cycle Established For Bureau’s Public Notice Regarding Connect America Phase II*, DA 13-80 (Wireline Comp. Bur., rel. Jan. 22, 2013) (announcing comment dates following Federal Register publication of the CAF II Public Notice).

at the end of CAF Phase II.³ Yet commenters urging the Commission to use speeds of 3 Mbps downstream/768 kbps upstream (“3/768”) as a proxy for determining whether or not a census block is “served” is contrary to Commission’s immediate goal of 4 Mbps downstream/1 Mbps upstream speeds (“4/1”) and its long-term goals for faster speeds.⁴

The American Cable Association makes much of the distinction in network speeds between price cap carriers’ DSL networks and cable operators’ DOCSIS network, arguing that where cable operators offer speeds of 3/768 they are also likely to offer 4/1.⁵ However, the Commission has chosen to use the National Broadband Map (“NBM”) as the primary source for determining areas that are served or unserved, but the NBM only captures broadband speeds at 3/768 and 6/1.5, not at 4/1. It makes little sense to opt for the lower broadband speed tier as a proxy for a higher speed requirement simply because the source for verifying broadband speeds is not in sync with the Commission’s new standards, particularly when the higher speed measured is the Commission’s ultimate goal.⁶ Using a lower speed as a proxy would not further

³ See *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶¶ 5, 108, 160, 162, 187 (2011) (“*USF/ICC Transformation Order*”).

⁴ See *Connect America Fund*, Comments of the American Cable Association On Procedures Relating To Areas Eligible For Funding And Election To Make A Statewide Commitment In Phase II Of The Connect America Fund, WC Docket No. 10-90 (filed Feb. 19, 2013) (“ACA Comments”); *Connect America Fund; Wireline Competition Bureau Seeks Comment on Procedures Relating to Areas Eligible for Funding and Election to Make a Statewide Commitment in Phase II of the Connect America Fund*, Comments of the National Cable & Telecommunications Association, WC Docket No. 10-90 2 (filed Feb. 19, 2013) (“NCTA Comments”); *Connect America Fund*, Comments of The Wireless Internet Service Providers Association, WC Docket No. 10-90 (filed Feb. 19, 2013) (“WISPA Comments”).

⁵ See ACA Comments at 4.

⁶ In urging the Commission to adopt the 3/768 proxy, the National Cable & Telecommunications Association does nothing more than repeat the Commission’s conclusory statement that, because current data collections do not include data on 4/1 speeds, then the lower speed of 3/768 should serve as a proxy. It shows no regard for how that proxy would impact the Commission’s goal of expanding broadband at faster speeds. See NCTA Comments at 2.

the goal of encouraging investment where 4/1 is not in fact available. A lower speed as a proxy also does not further the ultimate goal of making broadband available at 6/1.5 where 4/1 already may be offered. ACA essentially asks the Commission to make this assumption based on a leap of faith. ACS agrees with the United States Telecom Association (“USTelecom”) that using 3/768 as a proxy for the 4/1 standard “potentially excludes from funding eligibility some high-cost areas that lack access to 4/1 service from either the incumbent or an unsubsidized competitor.”⁷

Similarly, the Wireless Internet Service Providers Association (“WISPA”) also urges the Commission to “retain the 3/768 ‘advertised speed’ component of its definition of ‘unsubsidized competitor,’” based on specious reasoning that this lower speed eligibility cutoff is appropriate in order to maintain consistency with rules adopted for CAF Phase I.⁸ WISPA’s assertion that doing otherwise would be changing the rules mid-stream is without merit.

Using 6/1.5 speeds for determining Phase II eligibility works in concert with the ultimate goal of CAF Phase II support,⁹ but is in no way a mid-stream shift from the goals to expand broadband at 4/1 speeds and higher to 6/1.5 where feasible.¹⁰ Regarding CAF Phase I, the Commission has not adopted a uniform standard. As the CAF II Public Notice observes,¹¹ the

⁷ *Procedures Relating to Areas Eligible for Funding and Election to Make a Statewide Commitment in Phase II of the Connect America Fund*, Comments of the United States Telecom Association, WC Docket No. 10-90, at 10 (filed Feb. 19, 2013) (“USTelecom Comments”).

⁸ WISPA Comments at 3-4.

⁹ The amount of Phase II funding is thirty times that of Phase I interim support, providing support over a longer duration, but also with specific latency and usage capacity requirements.

¹⁰ *USF/ICC Transformation Order*, ¶¶ 116, 156, 160. The Commission’s stated obligation for Phase II support is to “[e]xtend broadband to supported locations; supported locations do not include areas where there is an unsubsidized competitor offering 4 Mbps/1 Mbps.” *USF/ICC Transformation Order*, ¶ 105.

¹¹ See CAF II Public Notice, ¶ 9.

Commission effectively set a 3/768 proxy to govern use of CAF Phase I frozen support in 2013 and beyond.¹² However, the Commission has established differing standards to govern the use of CAF Phase I incremental support. The Commission restricted use of 2012 CAF Phase I incremental support to areas lacking any broadband at a speed of at least 768/200,¹³ with mixed results. Over 60 percent of such 2012 support was unclaimed, and ACS has urged the Commission to waive the restriction of this lower tier definition of broadband with respect to its 2012 CAF Phase I incremental support.¹⁴ ACS explains in its Petition for Waiver that its “ILECs serve numerous locations with aging Nortel modems that provide broadband service with a speed of 768 kbps, but that cannot provide any faster speed.”¹⁵ Therefore, without incurring significant expense to tear out existing broadband-capable equipment and replace it with facilities capable of meeting 4/1 speeds, these locations served by aging modems will not receive broadband at 4/1 speeds because they will not qualify for Phase I support. For this reason, the “ACS ILECs ... request a waiver of the definition of ‘broadband’ to enable them to upgrade facilities that currently provide service falling within the Commission’s lowest broadband speed tier, with a speed between 768 kbps and 1.5 Mbps, to achieve the Commission’s 4 Mbps/1Mbps mandate.”¹⁶

¹² See 47 C.F.R. § 54.313(c)(2-4); *See also USF/ICC Transformation Order*, ¶ 103, n. 168 and ¶ 150.

¹³ See *USF/ICC Transformation Order*, ¶¶ 105, 146.

¹⁴ See *Connect America Fund; High Cost Universal Service Support; Petition for Waiver of Section 54.312(b)(2) and (b)(3) of the Commission’s Rules of ACS of Anchorage, Inc., ACS of the Northland, Inc., ACS of Fairbanks, Inc., and ACS of Alaska, Inc.*, Petition for Waiver, WC Docket Nos. 10-90 and 05-337 (filed Sept. 26, 2012) (“ACS Petition for Waiver”).

¹⁵ ACS Petition for Waiver at 9.

¹⁶ ACS Petition for Waiver at 10.

Further, the Commission recently sought comment on the speed standard that should govern CAF Phase I incremental support to be distributed in 2013.¹⁷ In response, numerous commenters supported the Commission's proposal to permit usage of CAF Phase I frozen support in areas lacking 4/1 broadband, and urged the Commission to adopt 6/1.5 as the appropriate proxy for that speed tier.¹⁸ Those commenters demonstrated that using a proxy of 3/768 is not a reasonable or appropriate standard for assessing whether or not a census block is deemed served either for Phase I or Phase II support, particularly when the basis for disbursing support is determined based on the presence of an unsubsidized competitor offering broadband at 4/1 speeds for both support programs.

Clearly, therefore, with no uniform standard in place under CAF Phase I, WISPA's complaints that the Commission needs to adhere to the 3/768 standard for consistency reasons misses the mark. For the reasons discussed herein, and in ACS's comments regarding the use of 2013 CAF Phase I incremental support, ACS urges the Commission to adopt 6/1.5 as the best available proxy for the Commission's 4/1 broadband speed standard.

II. STANDARDS RELEVANT TO THE PURPOSE OF SUPPORT MUST BE APPLIED FOR IN ASSESSING WHETHER A CENSUS BLOCK IS SERVED

The speed at which broadband service is offered is a critical component in CAF Phase II, and ACS agrees that, if an unsubsidized competitor asserts that it is offering broadband service at 4/1 speeds, it should have the opportunity to make such a showing, resolving the eligibility status of the census block in a manner that is relevant to the Commission's standards.

¹⁷ See *Connect America Fund*, WC Docket No. 10-90, Further Notice of Proposed Rulemaking, FCC 12-138, 27 FCC Rcd 14566, ¶ 12 (2012).

¹⁸ E.g., *Connect America Fund*, WC Docket No. 10-90, Comments of Alaska Communications Systems at 9 (filed Jan. 28, 2013); Comments of USTelecom, ITTA, and the ABC Coalition at 12-13 (filed Jan. 28, 2013).

Yet, the Commission has also been clear that consumers must be able to use that speed for real-time applications such as VoIP, meaning latency standards must be met. Similarly, the Commission requires the consumers be able to access services over the broadband in a manner that is comparable to services riding over terrestrial residential fixed broadband service in urban areas.¹⁹

The Commission is clear that a gauge for negating census block eligibility is that competitors must be offering broadband in a manner that enables consumers to have the voice services they have historically relied upon. If a census block is deemed served by a competitor that cannot adequately show that it offers voice capabilities meeting the Commission's definition of universal service,²⁰ as well broadband meeting the Commission's speed, latency, affordability, and minimum usage allowance requirements, then price cap LECs stand to lose support in such census blocks as well as their long-term ability to continue offering services, or at least to continue offering services at reasonable rates. The unintended consequence of relaxing these voice standards for determining census block support eligibility is that consumers could potentially be stuck with a broadband service provider that offers facilities that are not capable of supporting voice services. Meanwhile the carrier of last resort would in many cases no longer be financially able to offer basic voice services at an affordable rate.

ACS agrees with The National Telecommunications Cooperative Association, The National Exchange Carrier Association, Inc., and The Western Telecommunications Alliance ("NTCA/NECA/WTa") about the potentially dire consequences of relying upon a map that shows only broadband coverage. As NTCA/NECA/WTa explain, that "could lead to voice

¹⁹ See *USF/ICC Transformation Order*, ¶ 105.

²⁰ See 47 C.F.R. § 54.101(a).

service rates becoming unaffordable or incomparable to rates in urban areas, or possibly even to a discontinuance of voice service altogether in the highest cost areas.”²¹ Consumer reliance on high quality voice services means that voice standards must be a component in determining whether a census block will be found ineligible for CAF Phase II support. Accordingly, unsubsidized broadband competitors should be required to make a satisfactory showing that their facilities meet necessary voice standards before a census block is removed from CAF Phase II eligibility.²²

III. MEANINGFUL BROADBAND EXPANSION REQUIRES AN INCLUSIVE APPROACH

A. The Presence Of Competitors Funded By Other Federal Support Confirms The Need CAF Phase II Support In The Census Block

USTelecom argues that the rules the Commission develops “will have a significant long-term impact on the state of broadband deployment in price cap areas” and therefore the Commission “should err on the side of being inclusive rather than potentially leaving unserved areas with no hope for relief in the foreseeable future. Erring on the side of inclusion does not affect the budget for CAF Phase II, which is set at \$1.8 billion per year; it merely changes where the upper and lower cost benchmarks must be placed to meet that budget.”²³ ACS agrees. An inclusive approach is consistent with the Commission’s goals of expanding broadband to as

²¹ See *Connect America Fund*, Comments of The National Telecommunications Cooperative Association, The National Exchange Carrier Association, Inc., and The Western Telecommunications Alliance, WC Docket Nol. 10-90, at 7 (filed Feb. 19, 2013) (“NTCA/NECA/WTAL Comments”). See also USTelecom Comments at 3 (without speed and voice capability standards “there is a heightened risk that many high-cost, non-Remote Areas Fund-eligible areas also would not be eligible for CAF Phase II support, leaving such areas without a single fixed terrestrial broadband provider at the appropriate level of service.”)

²² See also USTelecom Comments at 3 (“The Commission should exclude from CAF Phase II eligibility only those areas where an unsubsidized provider’s service meets all of these quality standards [referring to clear standards for speed, latency, usage and voice capability] simultaneously with a single service.”)

²³ USTelecom Comments at 2 (footnotes omitted).

many unserved locations as possible.²⁴

Lake Communications and Lake County, Minnesota (collectively “Lake County”) seek just the opposite. Lake County would use the Broadband Infrastructure Program (“BIP”) funding award to Lake Communications as a shield to prevent further broadband expansion to unserved locations by other carriers that seek CAF support for the same service area.²⁵ The fact that any carrier has received a subsidy through BIP suggests there is a need for funding to expand broadband to unserved areas. BIP funding does not negate the possibility that additional federal funding may be needed to expand broadband. Indeed, the Commission bars the use of CAF Phase II support only in census blocks already served by an *unsubsidized* competitor. It would be contrary to the Commission’s goal of expanding broadband to all Americans to follow the recommendation of Lake County, limiting CAF Phase II eligibility where a provider would not be offering service but for a subsidy program such as BIP.

B. Proposed Administrative Burdens Are Inconsistent With And Do Not Further The Purpose Of CAF Phase II Support

Several commenters seek to increase the administrative burdens on the price cap LECs that are seeking CAF Phase II support, specifically with requirements for serving challenges on other entities identified by the NBM in the census block and for providing granular detail about service plans with the requested support.²⁶ These administrative hoops divert precious resources,

²⁴ See *infra* at 1 (ensuring all Americans have access to high-speed Internet).

²⁵ Letter to FCC Commissioners from Jeff Roiland, Chief Executive Officer for Lake Communications, and Matthew Huddleston, Lake County Administrator, regarding “Conflict Between Provision of CAF Phase I Incremental Support and Broadband Stimulus Projects,” at 1 (filed Feb. 1, 2013).

²⁶ See ACA Comments at 7, 10-11 (asserting that a LEC should notify any provider identified on the NBM via certified mail, providing it with the evidence submitted to the Commission, and notifying the other provider of its rights to rebut the challenge; opposing the business confidentiality of price cap LECs to keep election responses confidential and insisting

both initially as part of the eligibility process and on an ongoing basis as part of the compliance process, squandering time, personnel, and operating budget that would be more appropriately used on broadband expansion.

Implementing a requirement that would force carriers to provide information challenging eligibility by certified mail served on entities identified in the NBM is unnecessarily burdensome.²⁷ ACS agrees with USTelecom that there are more efficient and reliable methods for sharing eligibility challenges, such as through use of a web site that is commonly accessible.²⁸

Similarly, a requirement that would compel carriers publicly to divulge competitively sensitive information (*i.e.*, detailed deployment plans of price cap LECs for the CAF Phase II support) not required by the Commission's compliance rules is immediately suspect and unreasonable.²⁹ ACS agrees with USTelecom that the "Bureau has no basis for requiring granular data at the outset, when the Commission rules require only a certification [based on build out percentages, not on specific locations as with CAF Phase I incremental support] at the end of the program's five-year term."³⁰

IV. CONCLUSION

To a large extent, accurate data and efficient processes will determine the success of the CAF Phase II support program. Adequate planning and forethought will help ensure that the determining factors – namely speed and service characteristics – for census block eligibility are appropriately set in order to fulfill the Commission's broadband expansion goals. Consumers

that price cap LECs submit precise data about their deployment plans for the support); *see also* NCTA Comments at 3 and 5; WISPA Comments at 6.

²⁷ See ACA Comments at 7, NCTA Comments at 3, WISPA Comments at 6.

²⁸ See USTelecom Comments at 7-8.

²⁹ See ACA Comments at 10-11 and NCTA Comments at 5.

³⁰ USTelecom Comments at 13.

cannot weather the results of short-sighted measures for determining census block eligibility when the limited funds to be disbursed are so crucial to America's broadband future. Critical to the eligibility process is setting criteria for broadband speeds and service characteristics that are consistent with the purpose of CAF Phase II support. Only then will consumers realize the benefits of broadband expansion at increasingly higher speeds to as many unserved locations as funding will support. Efficient use of both carrier and government resources also necessitates the use of processes that acknowledge and are responsive to limited resources.

Respectfully submitted,

/s/

Leonard A. Steinberg
General Counsel and Corporate Secretary
Richard R. Cameron
Assistant Vice President and Senior Counsel
ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.
600 Telephone Avenue
Anchorage, Alaska 99503

Karen Brinkmann
Robin Tuttle
KAREN BRINKMANN PLLC
2300 N Street, NW
Suite 700
Washington, D.C. 20037
(202) 365-0325
KB@KarenBrinkmann.com

Counsel for ACS

March 4, 2013